UNITED
NATIONS

A

General Assembly

Distr.
LIMITED

A/CN.4/L.559
8 June 1998

Original: ENGLISH

INTERNATIONAL LAW COMMISSION
Fiftieth session
Geneva, 20 April-12 June 1998
New York, 27 July-14 August 1998

DRAFT REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FIFTIETH SESSION

Rapporteur: Mr. Christopher John Robert Dugard

CHAPTER VIII

NATIONALITY IN RELATION TO THE SUCCESSION OF STATES

CONTENTS

		Paragraphs
A.	Introduction	1 - 4
B.	Consideration of the topic at the present session	5 - 6

GE.98-62318 (E)

A. Introduction

1. At its forty-fifth session (1993), the Commission decided to include in its agenda the topic entitled "State succession and its impact on the nationality of natural and legal persons". 1/ The General Assembly endorsed the Commission's decision in paragraph 7 of resolution 48/31 of 9 December 1993, on the understanding that the final form to be given to the work on the topic shall be decided after a preliminary study is presented to the Assembly. At its forty-sixth session (1994), the Commission appointed Mr. Václav Mikulka Special Rapporteur for the topic. 2/

2. At its forty-seventh (1995) and forty-eighth (1996) sessions, the Commission considered the Special Rapporteur's first and second reports. 3/ The Commission established at its forty-seventh session a Working Group entrusted with the mandate to identify issues arising out of the topic, categorize those issues which are closely related thereto, give guidance to the Commission as to which issues could be most profitably pursued given contemporary concerns and present the Commission with a calendar of action. 4/ The Working Group completed its task as regards the preliminary study of the topic at the forty-eighth session.

3. The Commission decided, at the forty-eighth session, to recommend to the General Assembly that it take note of the completion of the preliminary study of the topic and request the Commission to undertake the substantive study of the topic entitled "Nationality in relation to the succession of States" in accordance with the proposed plan of action, which, inter alia, envisaged: (a) that consideration of the question of the nationality of natural persons will be separated from that of the nationality of legal persons and that priority will be given to the former; and (b) that the decision on how to proceed with respect to the question of the nationality of legal persons will be taken upon completion of the work on the nationality of natural persons and

---

1/ Official Records of the General Assembly, Forty-eighth session, Supplement No. 10 (A/48/10), para. 440.

2/ Ibid., Forty-ninth session, Supplement No. 10 (A/49/10), para. 383.

3/ Respectively document A/CN.4/467 and A/CN.4/474 and Corr.1 and Corr.2 (Chinese only).

4/ Official Records of the General Assembly, Fiftieth session, Supplement No. 10 (A/50/10), para. 147.

in light of the comments that the General Assembly may invite States to submit to it on the practical problems raised by a succession of States in this field. 5/ The General Assembly endorsed the Commission's recommendations in paragraph 8 of resolution 51/160 of 16 December 1996.

4. At its forty-ninth session (1997), the Commission considered the Special Rapporteur's third report, 6/ containing a set of draft articles with commentaries on the question of the nationality of natural persons in relation to the succession of States. At the same session, the Commission adopted on first reading a draft preamble and a set of 27 draft articles on Nationality of natural persons in relation to the succession of States. 7/ The General Assembly, in paragraph 2 (a) of its resolution 52/156 of 15 December 1997, drew the attention of Governments to the importance of having their views on the draft articles and urged them to submit their comments and observations in writing by 1 October 1998.

B. Consideration of the topic at the present session

5. At the present session, the Commission had before it the Special Rapporteur's fourth report 8/ dealing with the second part of the topic, i.e., the question of the nationality of legal persons in relation to the succession of States, which it considered at its 2544th meeting, on 9 June 1998.

6. At its 2530th meeting, on 14 May 1998, the Commission established a Working Group 9/ to consider the question of the possible orientation to be given to the second part of the topic in order to facilitate the Commission's decision on this issue. The preliminary conclusions of the Working Group, which were considered by the Commission at its 2544th meeting, on 9 June 1998, are annexed to this report.

5/ Ibid., Fifty-first session, Supplement No. 10 (A/51/10), para. 88.

6/ Document A/CN.4/480 and Corr.1 (French only) and Add.1 and Corr.1 and Corr.2 (French only).

7/ Official Records of the General Assembly, Fifty-second session, Supplement No. 10 (A/52/10), chap. IV. C.

8/ Document A/CN.4/489.

9/ For the composition of the Working Group, see paragraph ... above.

UNITED NATIONS **A**

General Assembly

Distr.
LIMITED

A/CN.4/L.559/Corr.1
19 June 1998

Original: ENGLISH

INTERNATIONAL LAW COMMISSION
Fiftieth session
Geneva, 20 April-12 June 1998
New York, 27 July-14 August 1998

DRAFT REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FIFTIETH SESSION

Rapporteur: Mr. Christopher John Robert Dugard

CHAPTER VIII

NATIONALITY IN RELATION TO THE SUCCESSION OF STATES

Corrigendum

Paragraph 5, 4th line:

Replace "which it considered at its" with "which he introduced at the".

Insert a new paragraph 5 bis reading as follows:

5 bis. The Special Rapporteur observed that a preliminary exchange of views at the present session on possible approaches to the second part of the topic would facilitate the future decision to be taken by the Commission on this question, in particular given the fact that Governments had so far not submitted any written observations in response to the request contained in General Assembly resolution 52/156. In his report, following an overview of the discussion that had taken place so far on this issue both in the Commission and in the Sixth Committee, the Special Rapporteur had therefore raised a number of questions as regards the orientation to be given to the work on the nationality of legal persons and he suggested that they be discussed in the framework of a Working Group.

Paragraph 6, last line:

Replace "are annexed to this report" with "are set out below".

[Insert paragraphs 3 to 11 of doc. A/CN.4/L.557 and Corr.1 and Corr.2 (French only)]

During the consideration of the Working Group's preliminary conclusions, several members expressed a preference for the second option, i.e. the study of the status of legal persons in relation to the succession of States, and encouraged the Special Rapporteur to examine it further in his next report concerning this part of the topic of Nationality in relation to the succession of States.

UNITED
NATIONS

A

General Assembly

Distr.
LIMITED

A/CN.4/L.560
11 June 1998

Original: ENGLISH

INTERNATIONAL LAW COMMISSION
Fiftieth session
Geneva, 20 April-12 June 1998
New York, 27 July-15 August 1998

DRAFT REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FIFTIETH SESSION

Rapporteur: Mr. Christopher John Robert Dugard

CHAPTER X

OTHER CONCLUSIONS AND DECISIONS

The text of document ILC(L)/PG/1 should be reproduced under this chapter.

GE.98-62456 (E)